

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ZABIHOLLAH NAJAFIANASHRAFI,

Plaintiff,

v.

MERRICK B. GARLAND, *et al.*,

Defendants.

Case No. 1:24-cv-00336-BAM

ORDER DIRECTING CLERK OF COURT
TO RANDOMLY ASSIGN DISTRICT
JUDGE

FINDINGS AND RECOMMENDATIONS
RECOMMENDING PLAINTIFF'S
APPLICATION FOR LEAVE TO PROCEED
IN FORMA PAUPERIS BE DENIED

(Doc. 2)

FOURTEEN (14) DAY DEADLINE

Plaintiff Zabihollah Najafianashrafi ("Plaintiff"), proceeding *pro se*, seeks adjudication of his petition for adjustment of status to permanent residence (Form I-485). (Doc. 1.) Plaintiff initiated this action on March 21, 2024. (*Id.*) On the same day, Plaintiff filed an application to proceed *in forma pauperis* under 28 U.S.C. § 1915. (Doc. 2.).

According to Plaintiff's application, he receives monthly income from employment in the amount of \$3,433.22 per month. (Doc. 2 at 1.) This amounts to an annual income of \$41,198.64 (\$3,433.22 x 12 months). Plaintiff has no dependents. (*Id.* at 2.)

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1 “To satisfy the requirements of 28 U.S.C. § 1915, applicants must demonstrate that
 2 because of poverty, they cannot meet court costs and still provide themselves, and any
 3 dependents, with the necessities of life.” *Soldani v. Comm’r of Soc. Sec.*, No. 1:19-cv-00040,
 4 2019 WL 2160380, at *1 (E.D. Cal. Jan. 31, 2019). Many courts look to the federal poverty
 5 guidelines set by the United States Department of Health and Human Services (“HHS”) as a
 6 guidepost in evaluating in forma pauperis applications. *See Martinez v. Kristi Kleaners, Inc.*, 364
 7 F.3d 1305, 1307 n.5 (11th Cir. 2004); *Boulas v. United States Postal Serv.*, No. 1:18-cv-01163-
 8 LJO-BAM, 2018 WL 6615075, at *1 (E.D. Cal. Nov. 1, 2018) (applying federal poverty
 9 guidelines to in forma pauperis application). For a family or household of one, the 2024 poverty
 10 guideline is \$15,060. *See U.S. Federal Poverty Guidelines Used to Determine Financial*
 11 *Eligibility for Certain Federal Programs*, available at <https://aspe.hhs.gov/poverty-guidelines>
 12 (last visited March 29, 2024).

13 Having considered Plaintiff’s application, the Court finds that he has not made the
 14 showing required by section 1915 that he is unable to pay the required fees for this action.
 15 Plaintiff has attested to employment income. Plaintiff’s household estimated annual income is
 16 more than double the federal poverty guidelines. In light of his application, Plaintiff is able to
 17 pay the filing fee while also providing for the necessities of life. Accordingly, the Clerk of the
 18 Court is HEREBY DIRECTED to randomly assign a District Judge to this action.

19 Furthermore, it is HEREBY RECOMMENDED that:

- 20 1. Plaintiff’s application to proceed without prepayment of fees and costs (Doc. 2) be
 21 DENIED; and
- 22 2. Plaintiff be required to pay the \$405.00 filing fee in full to proceed with this
 23 action.

24 These findings and recommendations are submitted to the United States District Judge
 25 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**
 26 **(14) days** after being served with these findings and recommendations, Plaintiff may file written
 27 objections with the Court. Such a document should be captioned “Objections to Magistrate
 28 Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within

1 the specified time may result in the waiver of rights on appeal. *Wilkerson v. Wheeler*, 772 F.3d
2 834, 838-39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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4 IT IS SO ORDERED.

5 Dated: March 29, 2024

/s/ Barbara A. McAuliffe
6 UNITED STATES MAGISTRATE JUDGE